

FILE COPY



No. 705

In the Supreme Court of the United States

OCTOBER TERM, 1939

THE UNITED STATES OF AMERICA, PETITIONER

v.

EMMETT F. DICKERSON

PETITION FOR A WRIT OF CERTIORARI TO THE COURT
OF CLAIMS

INDEX

| | Page |
|-------------------------------------|------|
| Opinion below | 1 |
| Jurisdiction | 1 |
| Question presented | 1 |
| Statutes involved | 2 |
| Statement | 2 |
| Specification of errors to be urged | 3 |
| Reasons for granting the writ | 4 |
| Conclusion | 13 |
| Appendix A | 14 |
| Appendix B | 17 |
| Appendix C | 22 |

CITATIONS

Cases:

| | |
|--|----|
| <i>Belknap v. United States</i> , 150 U. S. 588 | 12 |
| <i>Brooks v. United States</i> (E. D. N. Y.), decided Nov. 2, 1939 | 10 |
| <i>Dunwoody v. United States</i> , 143 U. S. 578 | 12 |
| <i>Mathews v. United States</i> , 123 U. S. 182 | 12 |
| <i>Strayss v. United States</i> (C. Cls.) decided January 8, 1940 | 11 |
| <i>United States ex rel. Gillett v. Dern</i> , 74 F. (2d) 485 | 12 |
| <i>United States v. Mitchell</i> , 109 U. S. 146 | 12 |
| <i>United States v. Perry</i> , 50 Fed. 743, appeal dismissed, 145 U. S. 660 | 12 |
| <i>United States v. Vulte</i> , 233 U. S. 509 | 12 |
| <i>Wallace v. United States</i> , 133 U. S. 180 | 12 |

Statutes:

| | |
|---|----------|
| Act of October 22, 1913, c. 32, 38 Stat. 208, 212 (U. S. C., Title 5, sec. 54) | 22 |
| Act of April 6, 1914, sec. 5, c. 52, 38 Stat. 312, 335 (U. S. C., Title 5, sec. 55) | 22 |
| Act of June 10, 1922, c. 212, 42 Stat. 625, 629 (U. S. C., Title 10, sec. 633, Title 37, secs. 13, 16): | |
| Sec. 9 | 5, 14 |
| Sec. 10 | 5, 14 |
| Act of March 3, 1933, c. 212, 47 Stat. 1489, 1519: | |
| Sec. 18 | 4, 5, 15 |
| Act of March 28, 1934, c. 102, 48 Stat. 509, 523: | |
| Sec. 24 | 16 |
| Act of May 14, 1935, c. 110, 49 Stat. 218, 226-227 | 16 |
| Act of June 14, 1935, c. 241, 49 Stat. 341, 356 | 23 |

Other statutes are cited in Appendix B, but are not referred to in the text of this petition and are, therefore, not included in this index.

II

Statutes—Continued.

| | Page |
|---|--------|
| Act of June 23, 1936, c. 725, 49 Stat. 1827, 1837..... | 16 |
| Act of April 27, 1937, c. 140, 50 Stat. 96..... | 11, 24 |
| Act of May 28, 1937, c. 277, 50 Stat. 213, 232..... | 4, 15 |
| Act of June 29, 1937, c. 403, 50 Stat. 359, 363..... | 23 |
| Act of July 1, 1937, c. 423, 50 Stat. 442, 446..... | 24 |
| Act of May 23, 1938, c. 259, 52 Stat. 410, 427..... | 24 |
| Act of June 16, 1938, c. 464, 52 Stat. 710, 711..... | 23 |
| Public Resolution No. 122, June 21, 1938, c. 554, 52 Stat. 809, 818..... | |

| | |
|---------------|-------------|
| Sec. 402..... | 3, 4, 5, 15 |
|---------------|-------------|

Miscellaneous:

| | |
|---|---------|
| 81 Cong. Rec. 4426, 5083-5084, 5088-5091..... | 7, 8, 9 |
| 83 Cong. Rec. 8553-8554, 8556-8557, 8565-8568, 8921, 9187, 9512, 9667-9669, 9671, 9677-9679..... | 8, 9 |
| S. Rept. 2161, 75th Cong., 3d Sess..... | 9 |
| H. R. 10851, 75th Cong. 3d Sess..... | 9 |
| Senate Rule XVI..... | 10 |
| House Rule XXI, sec. 2..... | 10 |

In the Supreme Court of the United States

OCTOBER TERM, 1939

No. —

THE UNITED STATES OF AMERICA, PETITIONER

EMMETT F. DICKERSON

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF CLAIMS

The Solicitor General, on behalf of the United States, prays that a writ of certiorari issue to review the judgment of the Court of Claims in the above case.

OPINION BELOW

The opinion of the Court of Claims is not yet officially reported.

JURISDICTION

The judgment of the Court of Claims was entered November 6, 1939. The jurisdiction of this Court is invoked under Section 3 (b) of the Act of February 13, 1925, as amended.

QUESTION PRESENTED

Whether Section 402 of Public Resolution No. 122 of June 21, 1938, *infra*, p. 15, suspends the re-

enlistment allowance otherwise payable under Section 9 of the Act of June 10, 1922, *infra*, p. 14, to men reenlisting in the military forces of the United States during the fiscal year ending June 30, 1939.

STATUTES INVOLVED

The applicable portions of the statutes involved are set forth in Appendix A, *infra*, pp. 14-16.

STATEMENT

The respondent has served in the United States Army as a private or a noncommissioned officer with substantial continuity since August, 1917 (Fdg. 1). He was honorably discharged upon the expiration of each of his enlistments, his last discharge being from an enlistment terminating on July 21, 1938 (Fdg. 1). On July 22, 1938, he reenlisted for another three-year term, and is now serving in the Army (Fdg. 1).

Section 9 of the Act of June 10, 1922, provided that after July 1, 1922, an enlistment allowance should be paid to every honorably discharged enlisted man who reenlists within a period of three months from the date of his discharge. The Act of March 3, 1933, "suspended" for the fiscal year ending June 30, 1934, so much of Sections 9 and 10 of the Act of June 10, 1922, as provided for the payment of reenlistment allowances. This suspension was continued in identical language for the fiscal years 1935, 1936, and 1937. However, different statutory language was employed for the years

1938 and 1939. Thus, Section 402 of Public Resolution No. 122, approved June 21, 1938, provided in substance that no part of any appropriation contained in that or any other Act for the fiscal year ending June 30, 1939, should be available for the payment of enlistment allowances for reenlistments, notwithstanding the provisions of Sections 9 and 10 of the Act of June 10, 1922. Similar provisions had been made for the fiscal year 1938.

When respondent reenlisted on July 22, 1938, he was not paid a reenlistment allowance, although he had reenlisted within three months from the date upon which he had been honorably discharged from his preceding term (Fdg. 2). If respondent were entitled to a reenlistment allowance for his reenlistment of July 22, 1938, there is due him the sum of \$75.00 (Fdg. 3).

Respondent brought suit in the Court of Claims to recover the sum of \$75.00, alleged to be owing to him under the provisions of Section 9 of the Act of June 10, 1922. The United States opposed the claim on the ground that Section 402 of Public Resolution No. 122 of June 21, 1938, suspended the allowance for reenlistment during the fiscal year ending June 30, 1939. The Court of Claims entered judgment for the respondent.

SPECIFICATION OF ERRORS TO BE URGED

The Court of Claims erred:

1. In holding that an enlisted man reenlisting in the Army during the fiscal year ending June 30,

1939, and complying with the terms of Section 9 of the Act of June 10, 1922, is entitled to recover a reenlistment allowance.

2. In failing to hold that Section 402 of Public Resolution No. 122 of June 21, 1938, suspends the payment of any reenlistment allowance which might be otherwise payable under Sections 9 and 10 of the Act of June 10, 1922, to a man reenlisting in the military or other uniformed forces of the United States during the fiscal year ending June 30, 1939.

3. In holding that the purpose and effect of Section 402 of Public Resolution No. 122 of June 21, 1938, and the Act of May 28, 1937, differed from the purpose and effect of Section 18 of the Act of March 3, 1933, and identical provisions in subsequent Acts which suspended payment of the reenlistment allowance provided in Sections 9 and 10 of the Act of June 10, 1922.

4. In holding that the only purpose and effect of Section 402 of Public Resolution No. 122 was to prohibit the payment of reenlistment allowances from the funds appropriated for the fiscal year ending June 30, 1939.

5. In entering judgment for the respondent.

REASONS FOR GRANTING THE WRIT

1. This case presents an important question in the interpretation of a federal appropriation Act. In construing the Act as it did the Court of Claims failed to give effect to the manifest intention of

Congress. And as a result of the decision below there are over 100,000 potential claims for reenlistment allowances for the fiscal years 1938 and 1939 which will clog the dockets of the courts. Moreover, the decision below may affect a large number of appropriation Acts employing language similar to that involved herein. It is therefore essential to the orderly administration of these statutes that the question here presented be put at rest as soon as possible.

The basic statutory provisions which grant allowances for reenlistment are contained in Sections 9 and 10 of the Act of June 10, 1922. See Appendix A, *infra*. As an economy measure, however, Section 18 of the Act of March 3, 1933 (Appendix A, *infra*) declared that the foregoing provisions of the 1922 Act were "suspended as to reenlistments made during the fiscal year ending June 30, 1934." And during each of the following three years like statutes were enacted which, in language identical with the 1933 Act, suspended the operation of the 1922 Act as to reenlistment allowances for the fiscal years ending June 30, 1935, 1936, and 1937, respectively. For the fiscal years 1938 and 1939, Congress adopted a somewhat different formula to achieve the same end. As to 1939, the year involved herein, Congress provided that (Section 402 of Public Resolution No. 422, June 21, 1938, c. 554, 52 Stat. 809, 818) "no part of any appropriation contained in this or any other Act for the fiscal year ending June 30, 1939, shall be available for the payment of enlist-

ment allowance * * * as to reenlistments made during the fiscal year ending June 30, 1939 * * *. See Appendix A, *infra*. And like provision had been made the preceding year with respect to reenlistments during the fiscal year ending June 30, 1938.

The court below, however, held that the variation in language between the provisions enacted for the fiscal years ending in 1934-1937 and the provisions dealing with the fiscal years ending in 1938 and 1939 was critical. It held that although the right to reenlistment allowances was suspended during the fiscal years 1934-1937, Congress nevertheless failed to achieve the same result for the fiscal years 1938 and 1939. It concluded that as to the latter years, the statutory limitation was merely binding upon administrative officers of the Government and that the basic right to the allowance remained in full force for which it could and did enter judgment. Thus the result of the decision is that although Congress took great pains to prevent the payment of any reenlistment allowance for the years 1938 and 1939, its express statutory prohibition can be circumvented by resort to the judicial process. And as a corollary to that result, each of the more than 100,000 potential claims becomes a potential lawsuit in order that the claim may be reduced to judgment.

It seems impossible to believe that Congress could have intended any such absurd consequences. ♦

And even in the absence of any legislative history showing that the change in statutory language was not intended to produce a different result, the court below should have construed the statute in accord with its plain import. But here the legislative history, ignored by the court below, confirms and fortifies the obvious meaning of these provisions, leaving no doubt whatever as to the purpose of Congress.

The provisions with respect to the year 1938 originated as an amendment, introduced by Senator Byrnes, to the second deficiency appropriation Act for the fiscal year 1937. The amendment, in language identical with the statutory provisions applicable here, prohibited the use of appropriated funds for the payment of reenlistment allowances for the year 1938. Senator Byrnes stated (81 Cong. Rec. 4426):

* * * the language of the amendment has been carried ordinarily in the Treasury and Post Office appropriation bill, but was not carried in that appropriation bill this year, and is therefore proposed to be included in the bill now before us.

* * * * *

The effect of it is simply to carry the same limitation that has been carried for years in the appropriation bills.

* * * * *

Its purpose is to continue the appropriation situation that has existed for years, so

that no bounty shall be paid for reenlistment in the military and other uniformed services.

This amendment was adopted by the Senate without recorded opposition. It was sent to conference, and in reporting the amendment to the House, the House managers described the amendment as "continuing during the fiscal year 1938 the suspension of the reenlistment gratuity for enlisted personnel of the Army, Navy, Marine Corps, and Coast Guard." 81 Cong. Rec. 5084. The House agreed to the amendment and the debate thereon demonstrates that all concerned viewed the proposal as differing in no way from the provisions in prior bills which suspended the payment of the reenlistment allowance. 81 Cong. Rec. 5083-4, 5088-91. The conclusion is inescapable that Congress believed that in enacting this amendment for the fiscal year of 1938 it had effectively suspended the provisions of the Act relating to reenlistment allowance, as it had done in prior years.

The legislative history also discloses that Congress, in adopting the identical provisions for the fiscal year 1939, likewise did not intend to change the nature of its prohibition of enlistment allowances. 83 Cong. Rec. 9512, 9677-9. It is clear that Congress deemed the payment of reenlistment allowance as fully suspended for the fiscal years 1938

and 1939 just as if the 1922 Act had been temporarily repealed.¹

Finally, it is to be observed that when the second deficiency measure for the fiscal year of 1938 was pending before the House an amendment relating to reenlistment allowances for the fiscal year of 1939 was offered containing language identical with that contained in the statute here under consideration. A point of order was made against the amendment on the ground that it was legislation in an appropriation bill. Representative Woodrum of Virginia, who had charge of the amendment, admitted that the point of order was good, and the Chair sustained it. 83 Cong. Rec. 8567. It would seem clear that were the amendment merely a

¹ 81 Cong. Rec. 5083-4, 5088-91; 83 Cong. Rec. 9512, 9677-9. See the statement by Representative Woodrum, chairman of the subcommittee in charge of the 1939 measure (p. 9677):

No reenlistment allowances have been paid for the past 5 fiscal years in any of the services, and in the absence of permanent law stopping it, the inhibition has been shuttled about in economy bills and appropriation bills at one time or another. We have not paid them for 5 years, and the latter part of this amendment now before the House is a Senate amendment which discontinues for another year the payment of the reenlistment allowances.

Compare the discussion on various amendments offered to another bill (H. R. 10851, 75th Cong., 3d Sess.) seeking to appropriate sums for the payment of the allowances. 83 Cong. Rec. 8553-4, 8556-7, 8565-8. These appropriations did not survive the passage of the Act. 83 Cong. Rec. 8921, 9187, 9667-9, 9671; cf. S. Rept. 2161, 75th Cong., 3d Sess.

limitation upon the power of accounting officers as the court below held, and not legislation suspending prior legislation, a point of order against its inclusion in an appropriation bill would not properly have been made. See House Rules XXI, sec. 2.

By failing to take into account the unmistakable purpose of the applicable statutory provisions, the Court of Claims has imparted to them a meaning that renders further review a matter of great importance. We are informed by the Comptroller General of the United States and by the War Department that as a result of the decision below, there are over 100,000 potential claimants for reenlistment allowances aggregating between ten and fifteen million dollars. And since each claim must be reduced to judgment, under the decision below, the burden upon the federal courts would be staggering.

² Senate Rule XVI also precludes legislation in an appropriation act but it does not appear that any point of order was raised in Senate in respect of the suspension of reenlistment allowances.

³ In *Brooks v. United States* (decided November 2, 1939, not yet officially reported), the United States District Court for the Eastern District of New York held that the several district courts had jurisdiction to entertain such suits for reenlistment allowances, although, on the merits, it ruled against the claimant.

The conflict on the merits, while not a basis for certiorari, nevertheless foreshadows further litigation with the likelihood of an ultimate conflict among the circuits. In view of the widespread litigation that may arise, an early resolu-

Moreover, the decision of the court below casts doubt on the effectiveness of a large number of statutes phrased in appropriation formulae similar to that employed in this case. It would seem to hold that, irrespective of the intent of Congress to suspend a prior general statute by forbidding the use of appropriated money, such prior statute, unless specifically suspended or repealed, continues to create rights against the United States which are susceptible of judicial ascertainment.⁴

Congress frequently has utilized language substantially similar to that here employed in various appropriation acts for the purpose of achieving objectives which might ordinarily be classified as strictly legislative in character. A number of recent statutes are set forth in Appendix B, *infra*, pp. 17-21 and the language of certain of such statutes is set forth in Appendix C, *infra*, pp. 22-24.

tion of the present conflict is particularly desirable rather than to await the development of the usual conflict among the circuits.

⁴ In *Strauss v. United States* (decided January 8, 1940, not yet officially reported), the Court of Claims allowed a retired rear admiral called back to active duty to recover active pay, although the Navy Department Appropriation Act of April 27, 1937, c. 140, 50 Stat. 96, 105, provided that no part of the sums appropriated for pay, etc., "shall be available to pay active-duty pay and allowances to officers in excess of nine on the retired list * * *," and the claimant was the tenth retired officer called to active service. The court, relying specifically upon its decision in the instant case, held that the Act of April 27, 1937, did not affect the authorization act granting active pay to retired officers called to active duty.

The possible impact of the decision below upon these statutes is, therefore, an additional consideration pointing to the general importance of this case.

2. The decision below is in substantial conflict with applicable decisions of this Court.

In *Belknap v. United States*, 150 U. S. 528, the claimant was an Indian agent, whose compensation had been fixed by statute at \$1800 a year. Later appropriation acts, however, appropriated only \$1500 for the office, and he sought to recover the difference. This Court denied his claim for additional salary. Cf. *United States v. Vulte*, 233 U. S. 509; 515; *Mathews v. United States*, 123 U. S. 182, 186; *Wallace v. United States*, 133 U. S. 180; *United States v. Perry*, 50 Fed. 743 (C. C. A. 8th), appeal dismissed, 145 U. S. 660; *United States ex rel. Gillett v. Dern*, 74 F. (2d) 485 (App. D. C.). And this Court has consistently held that the effect of a prohibition against the use of appropriated funds for a purpose authorized by prior legislation is to be governed by the intention of Congress: it may suspend or supersede the prior authorizing legislation if Congress so intended. *United States v. Mitchell*, 109 U. S. 146, 150; *Dunwoody v. United States*, 143 U. S. 578.

The intention of Congress in this case is clear and unmistakable. The failure of the Court of Claims to give effect to such intent brings this case into substantial conflict with the foregoing decisions of this Court.

. CONCLUSION

It is respectfully submitted that, for the reasons stated, this petition for a writ of certiorari should be granted.

FRANCIS BIDDLE,
Solicitor General.

FEBRUARY 1940.

APPENDIX A

Act of June 10, 1922, c. 212, 42 Stat. 625, 629-630 (U. S. C., Title 10, sec. 633; Title 37, secs. 13, 16):

SEC. 9. * * * On and after July 1, 1922, an enlistment allowance equal to \$50, multiplied by the number of years served in the enlistment period from which he has last been discharged, shall be paid to every honorably discharged enlisted man of the first three grades who reenlists within a period of three months from the date of his discharge, and an enlistment allowance of \$25, multiplied by the number of years served in the enlistment period from which he has last been discharged, shall be paid to every honorably discharged enlisted man of the other grades who reenlists within a period of three months from the date of his discharge. * * *

Sec. 10. * * *

* * * Existing laws authorizing a reenlistment gratuity to enlisted men of the Navy and Coast Guard are hereby repealed, and an enlistment allowance equal to \$50 multiplied by the number of years served in the enlistment period from which he has last been discharged, but not to exceed \$200, shall be paid to every honorably discharged enlisted man of the first three grades who reenlists within a period of three months from the date of his discharge; and an enlistment allowance of \$25 multiplied by the number of years served in the enlistment period from which he has last been dis-

charged, but not to exceed \$100, shall be paid to every honorably discharged enlisted man of the other grades who reenlists within a period of three months from the date of his discharge. * * *

Public Resolution No. 122, June 21, 1938, c. 554, 52 Stat. 809, 818:

SEC. 402. For an additional amount for salaries and expenses of the Rural Electrification Administration, fiscal years 1938 and 1939, including the same objects and under the same conditions specified under this head in the Independent Offices Appropriation Act, 1939, including printing and binding, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$700,000: *Provided*, That no part of any appropriation contained in this or any other Act for the fiscal year ending June 30, 1939, shall be available for the payment of enlistment allowance to enlisted men for reenlistment within a period of three months from date of discharge as to reenlistments made during the fiscal year ending June 30, 1939, notwithstanding the applicable provisions of sections 9 and 10 of the Act entitled "An Act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922 (37 U. S. C. 13, 16).¹

Act of March 3, 1933, c. 212, 47 Stat. 1489, 1519:

SEC. 18. So much of sections 9 and 10 of the Act entitled "An Act to readjust the pay

¹ The Act of May 28, 1937, c. 277, 50 Stat. 213, 232, contains language identical with that of the *proviso* to section 402, with the substitution of "fiscal year ending June 30, 1938" for "fiscal year ending June 30, 1939."

and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922 (U. S. C., title 37, secs. 13 and 16), as provides for the payment of enlistment allowances to enlisted men for reenlistment within a period of three months from date of discharge is hereby suspended as to reenlistments made during the fiscal year ending June 30, 1934.

This section was continued in full force and effect for the fiscal years ending June 30, 1935, June 30, 1936, and June 30, 1937, by Section 24 of the Act of March 28, 1934, c. 102, 48 Stat. 509, 523, the Act of May 14, 1935, c. 110, 49 Stat. 218, 226 7, and the Act of June 23, 1936, c. 725, 49 Stat. 1827, 1837, respectively.

APPENDIX B

The following statutes are illustrative of instances where the Congress has undertaken to legislate through the medium of appropriation Acts:

Act of April 6, 1914, c. 52, 38 Stat. 312, 335, Sec. 5 (U. S. C., Title 5, sec. 55) (Payment of accountants).

Act of May 10, 1916, c. 117, 39 Stat. 66, 120, as amended by Act of August 29, 1916, c. 417, 39 Stat. 556, 582 (U. S. C., Title 5, secs. 58, 59). (Prohibition of payment of double salaries).

Rev. Stat. Sec. 1761, as amended by Public Res. of June 7, 1924, c. 377, 43 Stat. 669 (U. S. C., Title 5, sec. 56) (Prohibition of payment of salary to unconfirmed officials appointed during session of Congress).

Act of Oct. 22, 1913, c. 32, 38 Stat. 208, 212 (U. S. C., Title 5, sec. 54) (Prohibition of employment of publicity experts).

Rev. Stat. Sec. 1766, as amended by Act of June 10, 1921, c. 18, 42 Stat. 20, 23 (U. S. C., Title 5, sec. 82) (Prohibition of salary payments to debtors of the United States).

Act of July 1, 1937, c. 423, 50 Stat. 442, 446;
Act of June 11, 1938, c. 347, 52 Stat. 642, 646
(limiting employment of aliens in military activities).

Act of June 16, 1937, c. 359, 50 Stat. 261, 265.
Act of April 27, 1938, c. 180, 52 Stat. 248, 251 (limiting employment of aliens in American missions abroad).

Act of April 27, 1938, c. 180, 52 Stat. 248, 289, Act of May 23, 1938, c. 259, 52 Stat. 410, 435, Act of June 25, 1938, c. 681, 52 Stat. 1114, 1162 (limiting compensation of certain alien officers and employees of the United States).

Act of June 29, 1937, c. 404, 50 Stat. 395, 396, Act of June 16, 1938, c. 464, 52 Stat. 710, 711-712 (prohibition of payment of salary to Department of Agriculture officials and employees predicting future prices of cotton).

Act of April 27, 1938, c. 180, 52 Stat. 248, 289, Act of March 28, 1938, c. 55, 52 Stat. 120, 148, and other acts (prohibition of salary payments to officials whose nomination the Senate has rejected).

Act of June 16, 1937, c. 359, 50 Stat. 261, 263, Act of April 27, 1938, c. 180, 52 Stat. 248, 250 (prohibition of salary payments to foreign service officials receiving another salary from the United States).

Act of April 27, 1937, c. 140, 50 Stat. 96, 101 (prohibition of payments to naval reservists drawing a pension from the United States).

Act of July 1, 1937, c. 423, 50 Stat. 442, 462 (prohibition of payments, etc., to National Guard officers or men drawing a United States pension).

Act of July 1, 1937, c. 423, 50 Stat. 442, 464 (prohibition of payments, etc., to members of the Organized Reserves drawing pensions).

Act of April 27, 1937, c. 140, 50 Stat. 96, 115, Act of July 1, 1937, c. 423, 50 Stat. 442, 467, and many other acts (prohibition of payments to officials using time measuring devices in employees' work, etc.).

Act of June 28, 1937, c. 396, 50 Stat. 329, 344 (Social Security Board experts or attorneys receiv-

ing more than \$5,000 annual salary to be confirmed by Senate).

Act of April 27, 1938, c. 180, 52 Stat. 248, 269 (Department of Justice attorneys to be admitted to the bar).

Act of April 27, 1938, c. 180, 52 Stat. 248, 264 (prohibition of salary payments to probation officers whose work falls below standards set by the Attorney General, etc.).

Act of June 16, 1937, c. 359, 50 Stat. 261, 278 (conciliation commissioners to be paid only one fee per case, and only after final disposition of the case).

Act of June 16, 1937, c. 359, 50 Stat. 261, 300, Act of April 27, 1938, c. 180, 52 Stat. 248, 286-287 (Secretary of Labor to expend less than authorized by existing law for enforcement of contract laborers act).

Act of June 29, 1937, c. 403, 50 Stat. 359, 363 (District of Columbia to insert legal advertisements less extensively than required by existing law).

Act of April 27, 1937, c. 140, 50 Stat. 96, 107 (limiting the number of midshipmen at the Naval Academy to a number less than required by existing law).

Act of July 1, 1937, c. 423, 50 Stat. 442, 464, (limiting active duty of Army reserve officers).

Act of April 27, 1938, c. 180, 52 Stat. 248, 269 (limiting payment of witness, juror, and bailiff fees).

Act of April 27, 1938, c. 180, 52 Stat. 248, 268 (only one witness fee to be paid).

Act of April 27, 1938, c. 180, 52 Stat. 248, 268 (bailiffs only to be paid for work performed when marshals unavailable).

Act of July 1, 1937, c. 423, 50 Stat. 442, 446, Act of June 11, 1938, c. 347, 52 Stat. 642, 646 (no payments to retired Army officers connected with the sale of supplies to Army).

Act of July 1, 1937, c. 423, 50 Stat. 442, 447, Act of June 11, 1938, c. 347, 52 Stat. 642, 646 (no payments to Army officers or men connected with military journals accepting paid advertising of firms dealing with War Department).

Act of July 3, 1930, c. 848, 46 Stat. 949, 966, Act of February 23, 1931, c. 282, 46 Stat. 1376, 1391-1392 (no payments to public school officials soliciting funds without authorization from pupils).

Act of May 23, 1938, c. 259, 52 Stat. 410, 427 (no payments to Tariff Commission members interested in proceedings in which they participate).

Act of June 14, 1935, c. 241, 49 Stat. 341, 356 (no payments to District of Columbia teachers teaching or advocating communism).

Act of June 29, 1937, c. 401, 50 Stat. 352, 355, Act of June 21, 1938, c. 554, 52 Stat. 809, 813, Sec. 14 (no payments to relief officials participating in state or local elections).

Act of April 4, 1938, c. 62, 52 Stat. 156, 166, 171 (no payments on District of Columbia contracts not awarded to the lowest bidder, etc.).

Act of May 25, 1939, c. 149, Public No. 90, 76th Cong., 1st Sess., p. 7 (limiting number of instructors in the Naval Academy).

Act of June 16, 1939, c. 208, Public No. 130, 76th Cong., 1st Sess., p. 11 (requiring members of the Capitol Police Force to meet prescribed standards).

Act of June 29, 1939, c. 248, Public No. 156, 76th Cong., 1st Sess., p. 20 (requiring probation officers to meet certain prescribed standards).

Act of July 15, 1939, c. 281, Public No. 176, 76th Cong., 1st Sess., p. 6 (limiting legal advertisements of the District of Columbia "notwithstanding the requirement that such advertising provided by existing law").

Revised Statutes, section 5266 (U. S. C., Title 47, sec. 3) (no payments to any telegraph company neglecting or refusing to accord preference to Government telegrams).

Act of February 24, 1899, c. 187, 30 Stat. 846, 864, see U. S. C., Title 5, sec. 27 (forbidding use of recording clocks for recording time of Government employees).

APPENDIX C

Certain of the statutes listed in Appendix B provide as follows:

Act of October 22⁶, 1913, c. 32, 38 Stat. 208, 212 (U. S. C., Title 5, sec. 54) :

No money appropriated by this or any other Act shall be used for the compensation of any publicity expert unless specifically appropriated for that purpose.

Act of April 6, 1914, c. 52, 38 Stat. 312, 335 (U. S. C., Title 5, sec. 55) :

SEC. 5. That no part of any money appropriated in this or any other Act shall be used for compensation or payment of expenses of accountants or other experts in inaugurating new or changing old methods of transacting the business of the United States or the District of Columbia unless authority for employment of such services or payment of such expenses is stated in specific terms in the Act making provision therefor and the rate of compensation for such services or expenses is specifically fixed therein, or be used for compensation of or expenses for persons, aiding or assisting such accountants or other experts, unless the rate of compensation of or expenses for such assistants is fixed by officers or employees of the United States or District of Columbia having authority to do so, and such rates of compensation or expenses so fixed shall be paid only to the person so employed.

Act of June 29, 1937, c. 403, 50 Stat. 359, 363:

For general advertising, authorized and required by law, and for tax and school notices and notices of changes in regulations, \$7,000: *Provided*, That this appropriation shall not be available for the payment of advertising in newspapers published outside of the District of Columbia, notwithstanding the requirement for such advertising provided by existing law.

For advertising notice of taxes in arrears July 1, 1937, as required to be given by the Act of February 28, 1898, as amended, to be reimbursed by a charge of 50 cents for each lot or piece of property advertised, \$5,500: *Provided*, That this appropriation shall not be available for the payment of advertising the delinquent tax list for more than once a week for two weeks in the regular issue of one morning or one evening newspaper published in the District of Columbia, notwithstanding the provisions of existing law.

Act of June 14, 1935, c. 241, 49 Stat. 341, 356:

* * * *Provided*, That hereafter no part of any appropriation for the public schools shall be available for the payment of the salary of any person teaching or advocating Communism.

Act of June 16, 1938, c. 464, 52 Stat. 710, 711:

* * * *Provided further*, That no part of the funds appropriated by this Act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on behalf of the Department or any division, commission, or bureau thereof, issues, or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of cotton or the trend of same: * * *

Act of July 1, 1937, c. 423, 50 Stat. 442, 446:

No payment shall be made from money appropriated in this Act to any officer on the retired list of the Army who, for himself or for others, is engaged in the selling of, contracting for the sale of, or negotiating for the sale of, to the Army or the War Department, any war materials or supplies.

Act of April 27, 1937, c. 140, 50 Stat. 96, 107.

* * * *Provided further*, That no part of this appropriation shall be available for the pay of any midshipmen whose admission subsequent to January 30, 1937, would result in exceeding at any time an allowance of four midshipmen for each Senator, Representative, and Delegate in Congress; of one midshipman for Puerto Rico, a native of the island, appointed on nomination of the Governor, and of four midshipmen from Puerto Rico, appointed on nomination of the Resident Commissioner; and of four midshipmen from the District of Columbia: * * *

Act of May 23, 1938, c. 259, 52 Stat. 410, 427:

* * * *Provided further*, That no part of this appropriation shall be used to pay the salary of any member of the Tariff Commission who shall hereafter participate in any proceedings under sections 336, 337, and 338 of the Tariff Act of 1930, wherein he or any member of his family has any special, direct, and pecuniary interest, or in which he has acted as attorney or special representative.

